

§ 136-29. Adjustment and resolution of Department of Transportation contract claim.

(a) A contractor who has completed a contract with the Department of Transportation let in accordance with Article 2 of this Chapter and who has not received the amount he claims is due under the contract may submit a verified written claim to the Secretary of Transportation for the amount the contractor claims is due. The claim shall be submitted within 60 days after the contractor receives his final statement from the Department and shall state the factual basis for the claim.

The Secretary or the Secretary's designee shall investigate a submitted claim within 90 days of receiving the claim or within any longer time period agreed to by the Secretary or the Secretary's designee and the contractor. The contractor may appear before the Secretary or the Secretary's designee, either in person or through counsel, to present facts and arguments in support of the claim. The Secretary or the Secretary's designee may allow, deny, or compromise the claim, in whole or in part. The Secretary or the Secretary's designee shall give the contractor a written statement of the decision on the contractor's claim.

(b) A contractor who is dissatisfied with the Secretary or the Secretary's designee's decision on the contractor's claim may commence a contested case on the claim under Chapter 150B of the General Statutes. The contested case shall be commenced within 60 days of receiving the written statement of the decision.

(c) As to any portion of a claim that is denied by the Secretary or the Secretary's designee, the contractor may, in lieu of the procedures set forth in subsection (b) of this section, within six months of receipt of the final decision, institute a civil action for the sum he claims to be entitled to under the contract by filing a verified complaint and the issuance of a summons in the Superior Court of Wake County or in the superior court of any county where the work under the contract was performed. The procedure shall be the same as in all civil actions except that all issues shall be tried by the judge, without a jury.

(d) The provisions of this section shall be part of every contract let in accordance with Article 2 of this Chapter between the Department of Transportation and a contractor. A provision in a contract that conflicts with this section is invalid. (1939, c. 318; 1947, c. 530; 1957, c. 65, s. 11; 1963, c. 667; 1965, c. 55, s. 11; 1967, c. 873; 1973, c. 507, ss. 5, 17, 18; 1977, c. 464, s. 7.1; 1983, c. 761, s. 191; 1987, c. 847, s. 3; 2009-266, s. 16.)